

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ROBERT BACK #01465630	§	
v.	§	CIVIL ACTION NO. 6:16cv236
TDCJ-CID, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Robert Back filed this civil rights lawsuit under 42 U.S.C. §1983 as well as the Americans with Disabilities Act and the Rehabilitation Act complaining of alleged violations of his rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The named Defendants are the Texas Department of Criminal Justice, Correctional Institutions Division and the University of Texas Medical Branch.

Back complained of the medical care which he received, including the alleged failure to provide him with bracing for his left leg impairment. The Defendants were ordered to answer the lawsuit and filed separate motions to dismiss.¹ Back filed responses to these motions.

After review of the pleadings, the Magistrate Judge issued Reports on January 23 and January 24, 2017, recommending that the motions to dismiss be granted and the lawsuit dismissed. On February 6, 2017, Back filed a motion for extension of time to file objections to the Reports. This motion was granted and Back was given until March 7, 2017, in which to object to the

¹The Defendant TDCJ-CID filed two motions to dismiss, docket no.'s 17 and 18, which are identical.

Magistrate Judge's Reports; however, no objections have been filed. The parties are therefore barred from *de novo* review by the District Judge of the Magistrate Judge's proposed findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Reports of the Magistrate Judge. Upon such review, the Court has determined that the Reports of the Magistrate Judge are correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). It is accordingly

ORDERED that the Reports of the Magistrate Judge (docket no.'s 26 and 28) are **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Defendants' motions to dismiss (docket no.'s 17, 18, and 19) are **GRANTED** and the above-styled civil action is **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief may be granted. It is further

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

So ORDERED and SIGNED this 28th day of March, 2017.



Ron Clark, United States District Judge